

House Bill 1188

By: Representatives Byrd of the 20th, Pruett of the 144th, and Hill of the 21st

A BILL TO BE ENTITLED

AN ACT

1 To create and establish the "Georgia Science Education and Employment Development Act";
2 to amend Code Section 48-1-2 of the Official Code of Georgia Annotated, relating to
3 definitions for revenue and taxation, so as to provide a definition for life sciences; to amend
4 Code Section 48-2-12 of the Official Code of Georgia Annotated, relating to the rules and
5 regulations applicable to the Department of Revenue, so as to prohibit duplicate taxation of
6 certain venture capital revenues that pass through payments and credits to nonresidents and
7 have the effect of discouraging venture capital investment companies from locating in this
8 state; to amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
9 income taxes, so as to provide that Georgia taxable net income of certain taxpayers shall not
10 include income which is attributable directly to a life sciences business of any taxpayer
11 which has been relocated from another state for the first 12 months; to provide for an
12 exemption for certain educational grants, scholarships, gifts, or awards; to amend Article 2
13 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the
14 imposition, rate, and computation of income taxes, so as to provide for an income tax credit
15 for qualified investments in research and development conducted in Georgia; to provide for
16 a short title; to provide for legislative findings and intent; to provide for definitions; to
17 provide for conditions and limitations; to provide for powers, duties, and authority of the
18 state revenue commissioner with respect to the foregoing; to provide for an income tax credit
19 for the sale of biomass materials and alternative fuels grown or produced in Georgia; to
20 provide for a short title; to provide for conditions and limitations; to provide for powers,
21 duties, and authority of the state revenue commissioner; to provide for a tax credit for certain
22 employers who employ students; to provide for conditions and procedures regarding such tax
23 credit; to define certain terms; to amend Code Section 48-13-71 of the Official Code of
24 Georgia Annotated, relating to organizations and companies exempt from corporate net
25 worth tax, so as to exempt life sciences corporations transferring to Georgia for the first 12
26 months; to provide for conditions and limitations; to provide for definitions; to provide an
27 effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as the "Georgia Science Education and Employment Development Act of 2008."

SECTION 2.

Code Section 48-1-2 of the Official Code of Georgia Annotated, relating to definitions for revenue and taxation is amended by renumbering paragraphs (16) through (26) as paragraphs (17) through (27) respectively, and adding a new paragraph (16) to read as follows:

"(16) 'Life sciences' means research, development, and commercialization directly related to the use of compositions, methods, and organisms in cellular and molecular research, development, and manufacturing processes in areas such as pharmaceuticals, agriculture, homeland security, medical therapeutics, medical diagnostics, medical devices, veterinary medicine, plant biology, and microbiology; development and qualitative improvement in the areas of medical sciences, pharmaceutical sciences, environmental protection, biological sciences, zoology, botany, horticulture, ecology, toxicology, organic chemistry, physical chemistry, and physiology; and technological developments in the areas of molecular biology, genomics, proteomics, physiomics, nanotechnology, biodefense, biocomputing, bioinformatics, and other developments associated with biotechnology."

SECTION 3.

Code Section 48-2-12 of the Official Code of Georgia Annotated, relating to the rules and regulations applicable to the Department of Revenue, is amended by adding a new subsection to read as follows:

"(e) The commissioner shall not be authorized to provide by rule and regulation for the taxation of any pass through or intermediary funding or payments conducted by any individual, business, corporation, or other entity in this state whether in the form of a cash payment, a periodic or special distribution, distribution of other property, a credit to an individual or entity in lieu of such payment, or an individual's or entity's distributive share of income or other gain that is passed through, distributed, or credited to any nonresident partnership, business corporation, or individual. Any such rule or regulation to the contrary shall be null and void."

SECTION 4.

Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes is amended in subsection (a) of Code Section 48-7-27 of the Official Code of Georgia Annotated, relating to computation of taxable net income, by replacing "; and" at the end of paragraph (14) with a semicolon, replacing the period at the end of paragraph (15) with "; and", and adding a new paragraph to read as follows:

"(16) The amount of funds paid to a taxpayer in the form of educational grants, scholarships, or other educational funding gifts or awards where such funds were expended for the purpose of attending any educational course offered by a university or college in Georgia to the extent that such amount was included in the taxpayer's federal adjusted gross income."

SECTION 5.

Said chapter is further amended by striking subsection (e), which is reserved, and adding a new subsection (e) at the end of Code Section 48-7-27, relating to computation of taxable net income, to read as follows:

"(e) Georgia taxable net income shall not include any income of a taxpayer which is attributable directly to a life sciences business of the taxpayer which has relocated its primary place of business or business headquarters from another state or foreign state to the State of Georgia. The exclusion provided for under this subsection shall commence on the date that the business is relocated to Georgia and begins operations and shall continue for the ensuing 12 months or until such date that the business transfers its primary place of business or business headquarters from Georgia or otherwise ceases business operations in Georgia, whichever shall first occur. A life sciences business enterprise planning or undergoing a qualified business transfer to Georgia shall be eligible to make application to the commissioner for the income tax exemption. The department shall be authorized to determine eligibility for the income tax exemption ensuring that a business is a life sciences business and has transferred its business to this state."

SECTION 6.

Said chapter is further amended by adding a new subsection (f) at the end of Code Section 48-7-31, relating to taxation of corporations, to read as follows:

"(f) Georgia taxable net income of a corporation shall not include any income of such corporation which is attributable directly to the business of the corporation which has been relocated from another state or foreign state to the State of Georgia where such corporation is a life sciences corporation. The exclusion provided for under this subsection shall commence on the date that the corporation is relocated to Georgia and begins operations

1 and shall continue for the ensuing 12 months or until such date that the corporation
2 transfers its primary place of business or corporate headquarters from Georgia or otherwise
3 ceases corporate operations in Georgia, whichever shall first occur. A life sciences
4 corporation planning or undergoing a qualified business transfer to Georgia shall be
5 eligible to make application to the commissioner for the income tax exemption. The
6 department shall be authorized to determine eligibility for the income tax exemption
7 ensuring that a corporation is a life sciences corporation and has transferred a corporation
8 to this state."

9 **SECTION 7.**

10 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the
11 imposition, rate, and computation of income taxes, is amended by adding new Code sections
12 to read as follows:

13 "48-7-40.27.

14 (a) This Code section shall be known and may be cited as the 'Georgia Research and
15 Development Investor Tax Credit.'

16 (b) The legislature finds that the welfare of this state is enhanced by the research and
17 development of new discoveries in Georgia and that the eventual commercialization of
18 Georgia research and development in a healthy entrepreneurial business environment
19 creates jobs and strengthens Georgia's economy. Ready sources of capital necessary to
20 support research and development are not currently available in the State of Georgia. This
21 Code section is enacted for the purpose of facilitating the availability of equity investment
22 in Georgia research and commercial development to expand Georgia's economy by
23 enlarging its base of wealth, creating businesses, and supporting the efforts of Georgia
24 researchers and educators.

25 (c) As used in this Code section, the term 'qualified investment' means a contribution of
26 cash or a cash equivalent for the purpose of the research and development of innovative
27 devices and discoveries by individuals, universities, colleges, or businesses, both private
28 and public; provided, however, that a qualified investment shall only qualify for the credit
29 provided by this Code section if such research and development is conducted in Georgia
30 and is based upon reasonable and accepted scientific methods and practices. Qualified
31 investments may be secured or unsecured and may be made at risk of loss or made as a gift,
32 grant, or scholarship. Qualified investment also means a contribution of a cash or cash
33 equivalent by a pass through or intermediary entity domiciled in the State of Georgia.

34 (d) There shall be allowed to each person or entity making a qualified investment who is
35 subject to the taxes imposed by this chapter a tax credit that shall be deductible from the
36 investor's net income tax liability, if any, for the taxable year in which the investment was

made in an amount of 50 percent of the qualified investment made by the taxpayer in each qualified investment.

(e) In the event that the total amount of the tax credit under this Code section for a taxable year exceeds the taxpayer's income tax liability, any unused tax credit shall be allowed the taxpayer against the next two succeeding years' tax liabilities. No such tax credit shall be allowed the taxpayer against prior years' tax liabilities.

(f) The commissioner shall be authorized to promulgate any rules and regulations necessary to implement and administer the provisions of this Code section.

48-7-40.28.

(a) This Code section shall be known and may be cited as the 'Biofuel Tax Credit.'

(b) As used in this Code section, the term:

(1) 'Alternative fuel facility' means any facility located in this state which is primarily dedicated to the production, processing, and sale of ethanol, biodiesel, butanol, and their by-products.

(2) 'Biomass materials' means any agricultural product or animal waste or by-product grown or produced in Georgia that is used in or for the production and processing of ethanol, biodiesel, butanol, and their by-products, including agricultural products, forestry products, animal fat by-products, or the wastes of such products.

(c) There shall be allowed to each person or entity who sells qualified biomass material or alternative fuels produced in a qualified alternative fuel facility and who is subject to the taxes imposed by this chapter a tax credit in the amount of 10 percent of the sale.

(d) In the event that the total amount of the tax credit under this Code section for a taxable year exceeds the taxpayer's income tax liability, any unused tax credit shall be allowed the taxpayer against the next two succeeding years' tax liabilities. No such tax credit shall be allowed the taxpayer against prior years tax liabilities.

(e) The commissioner shall promulgate any rules and regulations necessary to implement and administer this Code section."

SECTION 8.

Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to imposition and rate of income taxes, is amended by adding a new Code section to read as follows:

"48-7-43.

(a) As used in this Code section, the term:

(1) 'Employer' means any employer upon whom an income tax is imposed by this chapter; provided, however, that a significant component of the employer's business must include scientific research, development, or invention.

(2) 'Employment' means any job, whether part time or full time, or any internship program whereby educational credit is provided by the student's educational institution, which job or internship includes the application of scientific methods.

(3) 'Student' means a person under the age of 25 years who has been enrolled in a public or private postsecondary or high school educational institution in this state during the previous nine months, who is in good standing for continued enrollment, and who, during the taxable year, remained enrolled in an educational institution for a minimum of nine months and while enrolled has attempted at least 15 quarter hours or 12 semester hours.

(b) A tax credit against the tax imposed by this chapter shall be granted to an employer who first provides employment for a student on or after April 15, 2008. The amount of the tax credit shall be 100 percent of the wages paid to any such student; provided, however, that such tax credit may not exceed \$25,000.00 per student.

(c) The tax credit granted under this Code section shall not exceed the amount of the employer's income tax liability for the taxable year as computed without regard to this Code section. Any such excess tax credit may be carried over and claimed during the five-year period after the taxable year for which the tax credit is claimed until such tax credit is exhausted. No such tax credit shall be allowed the taxpayer against prior years' tax liabilities.

(d) To be eligible to claim the tax credit granted under this Code section, the employer shall certify to the department the name of the employed student; include a letter from the student's educational institution evidencing that such student has attempted the requisite number of quarter or semester hours during the taxable year; provide written evidence of the student's wages, which may include, but not be limited to, copies of the student's W-2 forms prepared by or for the employer; and furnish such other information as may be required by the department to ensure that tax credits are only granted to employers who provide employment for bona fide students pursuant to this Code section. The department shall adopt rules and regulations and forms to implement this tax credit program."

SECTION 9.

Code Section 48-13-71 of the Official Code of Georgia Annotated, relating to organizations and companies exempt from corporate net worth tax, is amended by striking "and" at the end of paragraph (1), striking the period and inserting "; and" at the end of paragraph (2), and adding a new paragraph to read as follows:

5 **SECTION 10.**

6 This Act shall become effective January 1, 2009, and shall be applicable to all taxable years

7 beginning on or after January 1, 2009.

9 All laws and parts of laws in conflict with this Act are repealed.